

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Frankie Woodberry,

Plaintiff,

vs.

Dolgencorp, LLC d/b/a Dollar General Store
No. 14610,

Defendant.

Civil Action No.: _____

DEFENDANT’S NOTICE OF REMOVAL

1. Defendant Dollar General (hereinafter, “Defendant”) files this Notice of Removal of the above-titled action from the Court of Common Pleas of Marion County, South Carolina, to the United States Court for the District of South Carolina, Florence Division, pursuant to 28 U.S.C. § 1441.

2. The above-titled action was instituted by the Plaintiff against the Defendant by service of a Summons and Complaint that was filed on August 23, 2022, in the Marion County Court of Common Pleas. Plaintiff then filed an Amended Summons and Complaint on November 3, 2022. Plaintiff served the Amended Complaint on Defendant on November 29, 2022. This action is currently pending in the Court of Common Pleas for Marion County, South Carolina, Case No. 2022-CP-33-00451. No further proceedings have been filed and the Summons and Complaint constitute all process, pleadings or orders properly served in this action. Pursuant to 28 U.S.C. § 1446(a), Defendant files herewith a copy of the entire contents of the Marion County file in the State Court Action attached hereto as Exhibit 1.

3. There is jurisdiction over this removed action pursuant to 28 U.S.C. § 1441 because Plaintiff could have originally filed the action in this Court pursuant to 28 U.S.C. § 1332. Specifically, this suit is removable because there is complete diversity of citizenship between the

Plaintiff and Defendant, and upon information and belief, based upon Plaintiff's claimed injuries and damages, the amount in controversy in this action exceeds Seventy-Five Thousand and 00/100 Dollars (\$75,000.00), exclusive of interests and costs.

4. At the time of commencement of the action, Plaintiff was and still is a citizen and resident of South Carolina. Defendant was at the time of the commencement of the action, and still is, a corporate entity organized and existing under the laws of a state other than South Carolina and having its principal place of business in a state other than South Carolina. Specifically, pursuant to 28 U.S.C. § 1332(c)(1), Defendant is a citizen of both Kentucky and Tennessee, as it is a Kentucky corporate entity with its principal place of business in Tennessee.

5. Plaintiff's Complaint alleges that on October 30, 2019, Plaintiff was attempting to enter a Dollar General store when he stepped into "a hole" in the parking lot and fell. Pl.'s Compl. at ¶¶ 8 & 9. Plaintiff further alleges that the incident resulted in past and future disability, past and future pain and suffering, as well as past and future medical costs. *See* Pl.'s Compl. ¶ 17. Plaintiff alleges that Defendant was negligent, *inter alia*, in the following ways: (1) creating the defective and unreasonably dangerous condition; (2) failing to remedy the defective and unreasonably dangerous condition; and/or (3) failing to warn of the of the defective and unreasonably dangerous condition. *See* Pl.'s Compl. at ¶ 14. Plaintiff also seeks an award of punitive damages. *See* Pl.'s Compl. at ¶ 14.

6. Based upon the allegations of Plaintiff's Complaint, the amount in controversy in this matter exceeds the sum of Seventy-Five Thousand 00/100 Dollars (\$75,000.00), exclusive of interest and costs, and said action is one over which the District Court of the United States has original jurisdiction under 28 U.S.C. § 1332 for the reasons set forth above.

8. Defendant hereby gives counsel for the Plaintiff written notice of the removal of

this action and will provide a copy of the filed Notice of Removal to the Clerk of Court for Florence County, as required by 28 U.S.C. § 1446(d).

9. Defendant files this Notice of Removal within thirty (30) days of the receipt of Plaintiff's Complaint in the state court action, which was the first pleading properly served upon Defendant setting forth Plaintiff's claims for relief.

WHEREFORE, Defendant respectfully submit this Notice of Removal this 28th day of December, 2022.

s/Randi Lynn Roberts

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